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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,098	04/14/2004	William F. Van Ostrand	60246-336;10884	6155
26096	7590	12/29/2005	EXAMINER	
CARLSON, GASKEY & OLDS, P.C. 400 WEST MAPLE ROAD SUITE 350 BIRMINGHAM, MI 48009			GANDHI, JAYPRAKASH N	
			ART UNIT	PAPER NUMBER
			2125	

DATE MAILED: 12/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/824,098	Applicant(s) VAN OSTRAND ET AL.	
	Examiner Jayprakash N. Gandhi	Art Unit 2125	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 10, 18 and 21 are vague, as all the claims are directed to a method of controlling HVAC system. It is not clear the claimed method is automatic, semi-automatic, computer controlled, or printed method.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-5, 8-9 and 21 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Baldwin et al. (Cited are in last action).

Baldwin discloses all the claimed elements of a HVAC system, including a controller 20, which detects failed component (sensors, 56/58/60/64) and removes the component without disrupting the operation of the HVAC system. It is to be noted that,

Art Unit: 2125

in the broad term "inferring" can be conclude, judge or gather

(<http://www.webster.com/>).

(12) FIG. 4 shows the overall concept of the present invention. Essentially, the controller 20 monitors the validity of selected inputs and configures the mode of operation of the HVAC system 10 in response to changes in status or state of those selected inputs. Typically, the invention would be included in steps 124 and 126 in the general operation of the system controller 20 shown in FIG. 3. Initially at step 136 of FIG. 4, the sensor validity of all sensors used by the system controller 20 in controlling the HVAC system 10 is checked. A sensor is valid if the sensor is providing an input signal, and the input signal is within a predetermined range. If at step 138 all the sensor inputs are determined to be valid, the system controller 20 attempts to upgrade its mode of operation at step 140 to the best available mode of operation. Thus if a sensor had previously failed and in the interim was repaired or came back within range, the system controller 20 would automatically recognize and upgrade the mode of operation without the necessity of manual intervention. **On the other hand, if at step 138 an input was determined to be invalid, the system controller 20 at step 142 reconfigures the mode of operation to the best available mode of operation that does not require the failed sensor.** Examples of this are described in the following alternative and more specific embodiments.

Response to Arguments

5. Applicant's arguments with respect to claims 1-4 and 8-9 have been considered but are moot in view of the new ground(s) of rejection.

Allowable Subject Matter

6. Claims 6-7, 11-17 and 19-20 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

7. Claims 10 and 18 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Schulz, Stamp et al., Fried, Riley et al., and Blunn et al. disclose related art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jayprakash N. Gandhi whose telephone number is 571-272-3740. The examiner can normally be reached on 6:30-5:00 (Mon. - Thu.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo P. Picard can be reached on 571-272-3749. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jayprakash N Gandhi
Primary Examiner
Art Unit 2125